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IT IS SO ORDERED.

Dated: January 26, 2022




C. Kathryn Preston
United States Bankruptcy Judge

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS

In re:)	Case No. 18-57442
)	
JOHN A. ROSS,)	Chapter 13
)	
Debtor.)	Judge Preston
)	
<u>Creditor:</u> U.S. Bank National Assoc., <i>et al.</i>)		
<u>Servicer:</u> SN Servicing Corporation)	
<u>Address:</u>)	
323 Fifth Street)	
Eureka, CA 95501)	

STIPULATION AND AGREED
ORDER SUSTAINING OBJECTION OF UNITED STATES TRUSTEE TO
CLAIM OF U.S. BANK TRUST NATIONAL ASSOC., *et al.* (Claim No. 6-1) and
RELATED NOTICE OF PAYMENT CHANGE (Docket No. 73)
(Objection at Docket No. 74)

This case came on for consideration upon the United States Trustee's Objection to the Claim of U.S. Bank Trust, N.A., *et al.*, by and through its mortgage loan servicer SN Servicing Corporation, (collectively as "Claimant")(Docket No. 74, Claim No. 6-1), and the related Notice of Payment Change (Docket No. 73).

The parties enter into the following Stipulations:

1. Debtor filed his Petition on November 27, 2018 (Docket No. 1);
2. Debtor's Amended Chapter 13 Plan (Docket No. 39) was confirmed on July 9, 2019 (Docket No. 42).
3. On February 5, 2019, Claimant filed a Proof of Claim ("POC") asserting an arrearage claim in the total amount of \$23,106.62. The POC provides that the claim is based on money loaned and secured by real property which serves as Debtor's primary residence. Of that amount, \$12,793.97 is claimed as an escrow deficiency for funds advanced, and \$5,258.78 is claimed as an escrow shortage (for an aggregate of \$18,322.75)(*see*, Court Claims Register, Claim No. 6-1, page 4).
4. On December 1, 2021, Claimant filed a Notice of Mortgage Payment Change ("NPC") that increases Debtor's escrow payment from \$861.91 per month to \$1,239.53 per month (*see*, Docket No. 73, page 1). Of that \$1,239.53 proposed escrow payment, \$171.42 is for a "shortage amount" designed to repay the proposed escrow shortage of \$8,244.61 over 48 months (*see*, Docket No. 73, pages 5 and 6).
5. Claimant did not file an NPC for the escrow cycle years of 2019 and 2020. Escrow adjustments for those escrow cycle years were not properly noticed. Therefore, it is unknown how much of the proposed escrow shortage of \$8,224.61 was carried over from those years to this most recent escrow analysis cycle.
6. Further, review of the escrow analysis attached to the NPC suggests that Claimant did not credit Debtor for at least a portion of pre-petition escrow to be repaid via the POC.
7. The U.S. Trustee filed his Objection on December 7, 2021, alleging potential irregularities in the Notice (Docket No. 74). Claimant filed its Response on December 10, 2021 (Docket No. 75).
8. This Court issued a Notice of Hearing scheduling hearing for January 14, 2022 (Docket No. 76).
9. After communication of the parties, this Agreed Order is full resolution with the following terms:

- a. This Agreed Order withdraws Claimant's Notice of Mortgage Payment Change filed December 1, 2021 (Docket No. 73);
- b. Claimant asserts Debtor's monthly mortgage payment effective March 1, 2022, is the following:
 - \$263.27 for principal and interest
 - \$1,068.39 for escrow
 - \$1,331.66 TOTAL MONTHLY PAYMENT
- c. The proposed escrow shortage on the NPC in the amount of \$8,214.61 is disallowed;
- d. Claimant shall adjust its records to reflect the reduction; and
- e. Claimant shall rerun an escrow analysis consistent with the objection herein.

In light of the foregoing Stipulations, the Court finds this Agreed Order well taken. Good cause appearing, therefore:

IT IS HEREBY ORDERED that the U.S. Trustee's Objection is SUSTAINED consistent with the terms of this Agreed Order.

IT IS FURTHER ORDERED that the escrow shortage of \$8,214.61 described in the Notice is specifically waived by Claimant.

IT IS FURTHER ORDERED that with waiver of escrow shortage, recompense of said sum will never be sought from the Debtor by Claimant at any time in the future.

IT IS FURTHER ORDERED that Debtor's escrow account is now in balance and Debtor's monthly escrow payment effective February 1, 2022, in the amount of \$1,068.39 is equal to the base amount (estimated taxes, insurance and any other escrowed items disbursed in the aggregate amount of \$12,820.68, divided by 12 months). Debtors' new total monthly payment is \$1,331.66 (\$263.27 for principal and interest, and \$1,068.39 for escrow) effective March 1, 2022.

IT IS FURTHER ORDERED that Claimant's Notice of Mortgage Payment Change (Docket No. 73) is WITHDRAWN.

IT IS FURTHER ORDERED that Claimant shall file a Notice of Mortgage Payment Change consistent with the terms in this Order by February 7, 2022, in order to be effective March 1, 2022.

IT IS FURTHER ORDERED that Claimant shall update its internal records consistent with the terms of this Order.

IT IS SO ORDERED.

SUBMITTED BY:

Andrew R. Vara
United States Trustee for Regions 3 and 9

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COPIES TO:

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